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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL

In the Matter of	)	
	)	
Amendment of Part 90 of	)	
the Commission's Rules to	)	PR Docket No. 93-144
Facilitate Future Development	)	
of SMR Systems in the 800 MHz	)	
Frequency Band	)	

To: The Commission

REPLY COMMENTS OF ADVANCED MOBILECOMM, INC.

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SUMMARY

Advanced MobileComm, Inc. ("AMI") joins the consensus of the Commenters in this proceeding supporting adoption of the Notice of Proposed Rulemaking in this proceeding with the minor modifications described herein.

The Comments to the NPRM reflect broad support for establishment of the Expanded Mobile Service Provider ("EMSP") license. The EMSP was seen by the consensus of the Commenters as furthering the FCC's stated goal of facilitating the implementation of wide area SMR systems. Indeed, the single Opposition filed to the EMSP proposal was submitted by a party for transparently competitive purposes.

AMI urges the Commission to modify the NPRM in two specific respects to accommodate the unique demands of U.S./Mexican border area operation subject to Section 90.619 of the Rules. First, although 280 SMR channels and 150 General Category Channels are generally available throughout the U.S. for allocation to SMR systems (and, ostensibly, for inclusion in an EMSP license) only 95 SMR channels and no General Category channels are available in the U.S./Mexican border area. Because of the extreme scarcity of SMR channels in the border area, AMI believes that it is critical to the successful implementation of EMSP service within the border area that the FCC permit the inclusion of inter-category channels in EMSP applications for markets within the border area even should the Commission otherwise elect not to authorize generally the inclusion of such channels in EMSP operations. The limitations imposed by the

scarcity of usable SMR channels in the border area likely would preclude effective EMSP operations therein, and certainly would preclude competition between viable EMSP providers in the area. The net result would frustrate the stated purpose of this proceeding "to encourage more efficient use of spectrum, particularly in congested areas, and accommodate technologically advanced systems supporting enhanced services such as seamless wide-area roaming and high speed data transmission." NPRM at para. 8.

Second, AMI believes that a clarification of the interference protection afforded between the offset channels and the regularly-assignable channels which they overlap is required in this proceeding to avoid harmful and chaotic interference between EMSP (or SMR) operations on offset channels and EMSP (or SMR) operations on regularly assignable channels. EMSP licensees will be expected to invest substantial capital in constructing and operating advanced systems both within the U.S./Mexican border area and in areas contiguous thereto. To attract the capital necessary to implement these advanced systems, and to attract and retain customers for those systems to provide a revenue base, the EMSP licensees must possess assurance that destructive interference between their system and another closely-spaced EMSP or SMR system will not occur. Accordingly, AMI urges the Commission to clarify that overlapping channels are afforded interference protection as detailed by NABER, AMTA, Motorola and ITA in PR Docket 93-60.

The majority of Commenters in this proceeding generally support the EMSP licensing process defined by the NPRM, albeit with requests for minor modifications. AMI similarly believes that, with the minor modifications suggested herein, the licensing process defined by the NPRM will facilitate an orderly transition to wide area EMSP service from existing SMR operations. AMI agrees with E. F. Johnson, NABER and others that the inclusion in EMSP applications of General Category channels that have been authorized to existing SMR operations will serve the public interest and concurs with NABER and E.F. Johnson that the inclusion of inter-category channels in EMSP operations that have been authorized to existing SMR operators likewise will facilitate the effective deployment of EMSP services.

AMI concurs with Dial Page and Fleet Call, among others, that the FCC properly has proposed to accept initial EMSP applications from SMR operators with licensed (as of May 13, 1993) facilities in the BTA/MTA. AMI concurs with Fleet Call (Comments at 8-9) that EMSPs must certify in their applications that they will provide the requisite interference protection to all existing or pending (as of the date of the EMSP application) co-channel systems, including the individual base stations of currently authorized or proposed advanced wide area systems. AMI further concurs with Dial Page, AMTA and Fleet Call that mutually exclusive EMSP applicants should be permitted to exchange consideration in the negotiating process to resolve the exclusivity.

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To: The Commission

REPLY COMMENTS

Advanced MobileComm, Inc. ("AMI"), by its counsel and pursuant to Section 1.415 of the Commission's Rules, 47 CFR Section 1.415, hereby submits its Reply to the Comments received by the Commission on its Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding.[1] By its NPRM, the Commission has proposed to facilitate the implementation of wide area SMR systems through the licensing of Expanded Mobile Service Providers ("EMSPs"). As proposed, an EMSP could reuse its authorized frequencies throughout each of the 47 Rand McNally Major Trading Areas ("MTAs), or alternatively, each of the 487 Basic Trading Areas ("BTAs") conditioned upon the provision of interference protection to all existing co-channel systems.

Approximately fifteen parties submitted Comments in response to the NPRM. Although some Commenters requested modification of certain of the proposals of the NPRM, or raised

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[1] Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, 8 FCC Rcd. 3950 (1993).

issues not addressed by the NPRM[2], only one party, Radiofone Corporation ("Radiofone") opposed the amendment of Part 90 to establish the EMSP license.[3] The clear consensus of the Commenters thus support the FCC's efforts to facilitate the introduction of wide area SMR service through implementation of EMSP licenses.

AMI is one of the nation's largest SMR providers and operates regional SMR systems, and supporting sales and service operations in Southern California; Raleigh/Durham, North Carolina; Minneapolis/St. Paul, Minnesota; Dallas/Ft. Worth, Texas; Denver, Colorado; and Las Vegas, Nevada, among other

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[2]See, e.g., Comments of E.F. Johnson Co. ("E.F. Johnson") at 6 (proposing that EMSP service areas be defined by overlapping contours of constructed stations); Comments of BellSouth Corporation, et. al. ("BellSouth") at 5-10 (proposing wireline eligibility for EMSP licenses); Comments of GTE Service Corporation ("GTE") at 6 (proposing that operators of wide area SMR systems, including EMSP licensees be classified as "commercial service providers").

[3]Radiofone's opposition to this proceeding appears to be premised upon its apprehension that with the establishment of the EMSP license, the land mobile service industry may become overly competitive. Radiofone Comments at 8. Notwithstanding Radiofone's apprehension in this respect, the promotion of additional competition to the cellular providers, like Radiofone, is consistent with the public policy goals that have been pursued by the FCC for years. See, e.g., Amendment of the Commission's Rules to Establish New Personal Communications Services, 7 FCC Rcd. 5676 (1992). Moreover, Radiofone's assumption that EMSP licensees will principally compete with the cellular providers is wholly speculative. The business strategies of EMSP licensees no doubt will vary according to the demands of the marketplaces they serve. Radiofone's unsupported apprehensions and speculations, accordingly, should be disregarded.

locations.[4] Through its operating affiliates, AMI has been a pioneer in the development and implementation of advanced, wide area SMR networks.[5] AMI is thus well acquainted with the technological and marketplace forces that have led to this proceeding. From this perspective, AMI commends the Commission's leadership in the instant proceeding in seeking to promote the expeditious deployment of EMSP systems, and joins the consensus of the Commenters in supporting adoption of the NPRM with the modifications suggested herein.

I. THE EMSP RULES MUST MAKE PROVISION FOR THE UNIQUE DEMANDS OF U.S./MEXICAN BORDER AREA OPERATIONS

In the NPRM, the FCC has proposed rules of general applicability governing EMSP licensing throughout the U.S. Although as set forth below, AMI generally supports with minor modifications the adoption of the NPRM, it is concerned that the proposed rules do not address the unique demands of the U.S./Mexican border area as defined in Section 90.619 of the

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[4]AMI's ultimate parent company, FMR Corp., is the nation's largest privately-owned investment management organization. FMR Corp., together with its subsidiaries (collectively "Fidelity Investments"), provides investment, management and shareholder services for retail and institutional investors; provides discount brokerage services; manages and develops real estate; and invests in emerging businesses. In conjunction with these activities, Fidelity Investments manages and operates an extensive telecommunications system consisting of leased lines, private microwave systems, private fiber optic systems and sophisticated voice and data switching centers that link its customer service centers and individual customers on a nationwide basis.

[5]See, e.g., Letter from Richard J. Shiben, Chief, Land Mobile and Microwave Division, Private Radio Bureau, to George Hertz, President, Advanced MobileComm of New England, Inc. (April 13, 1992).

Rules.

A. Inter-Category Channel Usage In The Border Area

Although 280 SMR channels and 150 General Category Channels are generally available throughout the U.S. for allocation to SMR systems (and, ostensibly, for inclusion in an EMSP license) only 95 SMR channels and no General Category channels are available in the U.S./Mexican border area.[6] Given the extreme scarcity of SMR channels in the border area and the heavy demand for land mobile service therein, SMR operators in that area have relied heavily upon the availability of the Business and Industrial/Land Transportation channels through the inter-category sharing provisions of Section 90.619(a)(3) & (4) to meet the demands of the land mobile community in that region.

As discussed below, AMI agrees with the consensus of the Commenters (including AMTA, NABER, E.F. Johnson and Dial Page) that General Category channels generally should be eligible for inclusion in EMSP licenses, and agrees with NABER and E.F. Johnson that, at a minimum, inter-category channels authorized to

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[6]Pursuant to a frequency sharing agreement with the Government of the United Mexican States, the FCC in 1982 allocated a total of 65 SMR channels, 55 Public Safety/Special Emergency channels, 40 Business channels and 40 Indusdtrial/Land Transportation channels in the U.S./Mexican border area. Amendment of Part 90 of the Commission's Rules to Release Spectrum in the 806-821/851-866 MHz Bands, 90 FCC 2d 1281, 52 RR 2d 11 (1982) ("Offset Order"). An additional 30 SMR channels, 30 Public Safety channels, 20 Business channels and 20 Industrial/Land Transportation channels in the U.S./Mexican border area were released by the Commission in 1985. Amendment of Part 90 to Reflect Additional 800 MHz Private Land Mobile Radio Frequencies Available for Use Along the U.S./Mexican Border, (March 22, 1985).

existing SMR operators with constructed and operational systems should be eligible for inclusion in EMSP licenses. Moreover, even should the FCC generally elect not to permit inclusion of inter-category channels in EMSP operations, because of the extreme shortage of SMR channels in the U.S./Mexican border area, AMI believes that it is critical that an exception to any such general policy be made for existing usage of inter-category channels by SMR operators in the border area. In the absence of a policy permitting inclusion of the inter-category channels in EMSP operations in the U.S./Mexican border area, only 95 SMR channels would be available for EMSP operations between all of the SMR operators in that region -- approximately one-third the SMR channel capacity and less than one-fourth the SMR and General Category channel capacity available to EMSP operations in other areas.[7] The limitations imposed by the scarcity of usable SMR channels in the border area likely would preclude effective EMSP operations therein, and certainly would preclude competition between viable EMSP providers in the area. The net result would frustrate the stated purpose of this proceeding "to encourage more efficient use of spectrum, particularly in congested areas,

[7]The availability of SMR channels in the U.S./Mexican border area for EMSP operations will be even further restricted by the need to protect the co-channel public safety operations of San Bernardino County on the offset SMR frequencies assigned to the border area. See Request for Waivers of Part 90 of the Commission's Rules by the County of San Bernardino to Operate a Countywide Public Safety Communication System in the 800 MHz Band, 2 FCC Rcd 6721, 63 RR 2d 1733 (1987) ("San Bernardino"), recon., 3 FCC Rcd 6033, 65 RR 2d 450 (1988) ("San Bernardino Reconsideration"), further recon., 4 FCC Rcd 3830, 66 RR 2d 770 (1989) ("San Bernardino Further Reconsideration").

and accommodate technologically advanced systems supporting enhanced services such as seamless wide-area roaming and high speed data transmission." NPRM at para. 8.

B. Offset Channel Usage In the Border Area

Further complicating the transition to EMSP operations in the U.S./Mexican border area is the 12.5 kHz offset of the border area private land mobile channels from the regularly-assignable U.S. channels. As set forth below, AMI believes that a clarification of the interference protection afforded between the offset channels and the regularly-assignable channels which they overlap is required in this proceeding to avoid harmful and chaotic interference between EMSP (or SMR) operations on offset channels and EMSP (or SMR) operations on regularly assignable channels.

In its Offset Order in 1982 -- eight years after adoption of the PLMRS interference standards -- the Commission allocated a total of 200 offset channels for PLMRS use in the U.S./Mexican border area.[8] Although the Commission did not

[8]By its Second Report and Order in Docket 18262, the Commission allocated the 806-821 MHz and 851-866 MHz bands to the Private Land Mobile Radio Services ("PLMRS"). Inquiry Relative to the Future Use of the Frequency Band 806-960 MHz (Second Report and Order), 46 FCC 2d 752, 30 RR 2d 75 (1974), recon., 51 FCC 2d 945, 33 RR 2d 457 (1975). In addressing the interference protection to be provided between co-channel PLMRS Stations therein, the Commission concluded "that the undesired signal should be 10 dB down from the desired one." Id. at 101. Finding that the average desired signal level should be 40 dBu (and the undesired signal level no greater than 30 dBu) "at the edge of the service area," the Commission adopted as Section 89.751 of its Rules a seventy mile separation requirement for co-channel stations operating in the PLMRS frequency bands. The Commission provided in this Rule that only co-channel interference between

define the term "co-channel" in that decision -- nor has it otherwise formally defined that term in the PLMRS context -- it recognized the potential for interference between offset and non-offset stations. Id. at 50, n. 102. The Commission did not otherwise address in that decision the applicability of Section 90.621 to overlapping offset and non-offset channels.

The Private Radio Bureau held in its decision

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base station operations would be taken into account and that adjacent channel and "other types" of possible interference would not be taken into account. These interference standards were re-codified without substantive textual change in 1978 in Subpart M of Part 90 of the Commission's Rules. Private Land Mobile Radio Services, 69 FCC 2d 1612, 44 RR 2d 1391 (1978). In its Amendment of Part 90, Subparts M and S of the Commission's Rules, 3 FCC Rcd 1838, 64 RR 2d 1042 (1988), the Commission consolidated (without textual change) the co-channel interference protection afforded exclusive PLMRS stations operating in the 806-824, 851-869, 896-901 and 935-940 MHz bands in Section 90.621 of its Rules. In its Amendment of Part 90 of the Commission's Rules to Permit the Short-Spacing of Specialized Mobile Radio Systems Upon Concurrence From Co-Channel Licensees, 6 FCC Rcd. 4929 (1991), recon., 7 FCC Rcd. 6069 (1992) ("Short-Spacing Order") the Commission adopted a 40/22 dBu standard for determining the necessary degree of protection between short-spaced co-channel SMR stations based upon an industry consensus (including AMI) recommendation. The Commission did not expressly address interference protection between SMR stations operating on overlapping offset and non-offset channels in the Short-Spacing Order. In its Notice of Proposed Rulemaking in PR Docket 93-60, the Commission has proposed to apply the 40/22 dBu short-spacing protection standard to all stations operating above 800 MHz in all Part 90, Subpart S service Pools. Co-channel Protection Criteria for Part 90, Subpart S Stations Operating Above 800 MHz, 8 FCC Rcd. 2454 (1993). As noted above, NABER, ITA, AMTA and Motorola have requested that the Commission clarify that overlapping channels are accorded co-channel interference protection, a request that was supported by AMI in its Reply Comments in PR Docket 93-60. In its Notice of Proposed Rulemaking initiating PR Docket No. 92-235, the Commission has proposed to replace Section 90.621 of its Rules, without substantive textual change, with new Section 88.215. Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, 7 FCC Rcd. 8105 (1992).

authorizing the use of the offset channels for public safety purposes by San Bernardino County that it would apply the full 70 mile interference protection requirements of Section 90.621 to applications requesting SMR frequencies "that are 12.5 kHz removed from frequencies being used by the County...."[9] Although the Bureau suggested in San Bernardino that the separation between the existing offset and new non-offset Stations "theoretically... need not be as great" as 70 miles, it made clear that any deviation from the 70 mile standard would be approved only on a case-by-case basis and only after an examination of all pertinent facts. In affirming the Bureau, the Commission stated that:

> because use of the offsets will have an electromagnetic effect on co-channel facilities that is similar to the electromagnetic effect of use of the existing channels, the Bureau reasonably concluded that it should treat the offset frequencies in the same way as the co-channel assignments for purposes of interference protection from future stations. [10]

In Joint Comments in the on-going docket examining the co-channel protection criteria for PLMRS stations above 800 MHz (PR Docket 93-60), the National Association for Business and Educational Radio, Inc. ("NABER"), the American Mobile Telecommunications Association, Inc. ("AMTA"), Motorola, Inc. ("Motorola") and the Industrial Telecommunications Association, Inc. ("ITA") have requested that the Commission clarify the

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[9]San Bernardino, 63 RR 2d 1733, 1736 (1987).

[10]San Bernardino Reconsideration, 65 RR 2d at 455.

interference protection afforded between 800 MHz Stations licensed in the Mexican border area on offset channels pursuant to Section 90.619 of the Rules and Stations outside the border area licensed on the regularly-assignable channels pursuant to Section 90.621 of the Rules. Joint Comments of NABER, AMTA, Motorola and ITA, PR Docket No. 93-60 (June 19, 1993) at 15-17. In this respect, the Joint Commenters note that "(p)reviously, the Commission's Gettysburg Licensing Division utilized an informal policy of reviewing applications for spacing less than 50 miles from a system offset by 12.5 kHz. However, such review is no longer performed." Id. at 15. The Joint Commenters thus requested that the Commission afford full co-channel interference protection between the offset channels and all regularly assignable channels from which they are offset. In the alternative, the Joint Commenters requested that the Commission establish a Table employing a 10 dB protection value between the offset channels and the regularly assignable channels.

AMI concurs with the Joint Commenters in PR Docket 93-60 that interference protection between the offset channels and the regularly-assignable channels, whether operated by SMR or EMSP licensees, is necessary to ensure reliable operations both by offset channels licensed within the border area and non-offset channels licensed outside the border area. Clearly, interference protection is necessary between stations that operate on overlapping channels.

The provision of a reasonable measure of interference

protection between stations operating on overlapping channels is of even greater importance in this proceeding. EMSP licensees will be expected to invest substantial capital in constructing and operating advanced systems both within the U.S./Mexican border area and in areas contiguous thereto. To attract the capital necessary to implement these advanced systems, and to attract and retain customers for those systems to provide a revenue base, the EMSP licensees must possess assurance that destructive interference between their system and another closely-spaced EMSP or SMR system will not occur.

In addition, the NPRM's proposal to license EMSP systems by MTAs gives rise to an even greater need for the clarification of the interference protection afforded between overlapping channels. To this end, the San Diego County and Imperial County BTAs in the U.S./Mexican border area are included in the Los Angeles MTA. This situation poses the substantial danger of causing repeated and significant instances of overlapping channel interference between EMSPs or between EMSPs and SMRs in the Los Angeles MTA. Although EMSP licensing by BTAs (or by MTAs with exceptions for the San Diego and Imperial BTAs) could ameliorate this issue, it would not eliminate the prospect for destructive interference between EMSPs with overlapping channels in areas proximate to the border demarcation. Accordingly, AMI urges the Commission to clarify that overlapping channels are afforded interference protection as detailed by NABER, AMTA, Motorola and ITA in PR Docket 93-60.

II. THE EMSP RULES SHOULD PROVIDE FOR AN ORDERLY TRANSITION TO WIDE AREA SERVICE FROM EXISTING OPERATIONS

In its NPRM, the Commission proposed an orderly two step process for accepting applications for, and awarding, EMSP licenses. Initially, EMSP applications would be accepted from entities who were SMR licensees within the BTA/MTA on or before May 13, 1993. Mutually exclusive EMSP applicants would be provided a sixty day window to resolve the exclusivity by negotiation. In the event of unsuccessful negotiations, the FCC would award the EMSP license either by lottery or through competitive bidding. NPRM at para. 7. Thereafter, EMSP applications would be accepted from any party for up to 42 unconstructed channels within the subject BTA/MTA. All EMSP applicants would be required to certify that they will protect existing co-channel licensees and previously-filed co-channel applications from harmful interference. All EMSP licensees would be required to construct and place in operation a system that covers at least 80 percent of the population or 80 percent of the geographic area of the BTA/MTA within five years from the date of license grant. Id.

The majority of Commenters in this proceeding generally support the EMSP licensing process defined by the NPRM, albeit with requests for minor modifications. See, e.g., AMTA Comments at 9-22; Dial Page, Inc. ("Dial Page") Comments at 8-9; Fleet Call, Inc. ("Fleet Call") Comments at 6-19; Council of Independent Communications Suppliers ("CICS") Comments at 2-7; NABER Comments at 2-3; E.F. Johnson Comments at 5. AMI similarly

believes that, with the minor modifications suggested herein, the licensing process defined by the NPRM will facilitate an orderly transition to wide area EMSP service from existing SMR operations.

A. Eligible Frequencies

In its NPRM, the FCC requested Comments on whether to permit General Category channels to be incorporated into EMSP licenses and proposed not to permit out-of-category channels to be so included. NPRM at para. 32. The Comments in response reflect a clear consensus that non-SMR channels that have been authorized to existing SMR systems should be eligible for inclusion in EMSP operations. To this end, AMTA notes correctly that General Category channels are already widely used in both traditional and wide area systems. AMTA Comments at 9. NABER urges the Commission to permit re-use of non-SMR (including General Category and Inter-Category channels) in EMSP licenses, noting that to exclude these channels "may impede the growth of the spectrum efficient 800 MHz systems and frustrate the development of a thriving, highly-competitive telecommunications industry." NABER Comments at 9. E.F. Johnson suggests in response that "because it has been many years since these (inter-category) channels were originally made available, their use at this time by SMRs would not likely have a significant negative impact on non-SMR users." E.F. Johnson Comments at 7.

AMI agrees with NABER and E.F. Johnson that because the licensing of the 800 MHz SMR, Business and Industrial/Land

Transportation channels is mature, the inclusion of both General Category and inter-category channels in EMSP operations that have been authorized to existing SMR systems will have little, if any, impact on non-SMR users. In contrast, inclusion of these General Category and inter-category channels in EMSP licenses will facilitate the provision of competitive, wide area SMR services, the principal goal of this proceeding.

B. The Two Step Licensing Process

AMI concurs with Dial Page and Fleet Call, among others, that the FCC properly has proposed to accept initial EMSP applications from SMR operators with licensed (as of May 13, 1993) facilities in the BTA/MTA. Clearly, the set of existing SMR operators well defines those entities with the greatest incentive and need to provide wide area service, and those who can achieve the greatest economies from operation of any additional system capacity gained by conversion to EMSP operations. Existing SMR operators, moreover, are those most likely to possess the requisite knowledge of unique market conditions that will enable the expeditious deployment of EMSP systems. The two step EMSP licensing proposed by the Commission in addition will deter the filing of speculative applications.

Southwestern Bell Corp. (Comments at 18-20) and Pactel Paging ("PacTel") (Comments at 8-10) argue that the FCC should not apply a two step EMSP licensing process and instead open initial applications to any qualified party. To this end, Southwestern Bell and PacTel claim that any advantage to

accepting first stage applications from existing operators is discriminatory and illusory. Pactel suggests alternatively that it would accept a waiver of, or "special exception," from the two step process to provide it and any other entity whose eligibility for 800 MHz licenses was previously restricted by Commission rule. Southwestern Bell and PacTel each, however, have ignored the many instances in which the Commission has recognized that providing existing common and private carrier operators an initial opportunity prior to other applicants to enhance system capacity in fact provides much public benefit. For example, when the Commission allocated an additional 10 MHz in the 800 MHz band to the cellular service in 1986,[11] it licensed that new capacity in equal 5 MHz blocks to the two existing cellular carriers in each market to obtain precisely the benefits that Southwestern Bell and PacTel deny here. Indeed, it was to obtain the same benefits that the FCC elected initially to "set aside" a full 20 MHz cellular license in each MSA and RSA for a wireline carrier. Similarly, since the inception of the SMR service, the FCC has provided priority for existing and loaded SMR operators in enhancing system capacity.[12] The proposal for a two step EMSP licensing process is thus well founded from both a policy and legal perspective.

PacTel's request, moreover, for a waiver or special

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[11]See Cellular Communications Systems, 2 FCC Rcd. 1825, 61 RR 2d 165 (1986).

[12]See Cellular Communications Systems, 86 FCC 2d 469, 483 (1981).

exception from the two step licensing process is, in fact, merely an attempt to reargue the Commission's decision to restrict wireline eligibility to hold SMR licenses -- an issue that is also argued by Southwestern Bell, Bell Atlantic Enterprises International, Inc. ("Bell Atlantic") and BellSouth. As Bell Atlantic notes, however, the issue of wireline eligibility to hold SMR licenses has been fully argued and is on reconsideration in PR Docket 86-3. That issue thus has no place in this docket, and should be allowed neither to delay the resolution of this proceeding nor to impede the timely acceptance of EMSP applications by the Commission.[13]

C. The Application Process

AMI concurs with Fleet Call (Comments at 8-9) that EMSPs must certify in their applications that they will provide the requisite interference protection to all existing or pending (as of the date of the EMSP application) co-channel systems, including the individual base stations of currently authorized or proposed advanced wide area systems. AMI further concurs with Dial Page, AMTA and Fleet Call that mutually exclusive EMSP applicants should be permitted to exchange consideration in the

[13]GTE's and Radiofone's attempts to raise in this proceeding issues as to whether EMSP and/or wide area SMR licensees would fall within the definition of "commercial service providers" within the meaning of the "regulatory parity" provisions of the pending Omnibus Budget Reconciliation Act of 1993 (H.R. 2264) or would constitute common carriage should also not be allowed to divert the Commission from its resolution of the issues in this proceeding. Clearly, adequate notice and comment under the Administrative Procedure Act and the pending legislation is required for the FCC to make any determination on regulatory parity of EMSP and/or wide area SMR providers.

negotiating process to resolve the exclusivity. To this end, AMI believes that the two step application process set forth in the NPRM will sufficiently deter speculative filings to enable the FCC to permit the exchange of consideration to resolve exclusivity. AMI also supports the suggestion of AMTA, Fleet Call and Dial Page that EMSP applicants should be required to submit with their applications a system design plan substantiating compliance with the EMSP construction requirements. This will assist the FCC in evaluating the bona fides of the EMSP applicant and will help conserve scarce administrative resources.[14]

Finally, AMI concurs with Fleet Call's recommendation that EMSP applicants should be required to commit to deploy an advanced technology capable of expanding system capacity beyond that which would be available by current analog transmission. This requirement will promote the use of state-of-the-art technology and enhance spectrum efficiency.

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[14]AMI, moreover, supports permitting an assignment of an SMR system to an ESMP as part of the application process. In the event, the ESMP application is not granted, then the underlying SMR assignment should be permitted and consummated. AMI further joins in AMTA's and Dial Page's request for a clarification of the requirement that an EMSP applicant specify a minimum number of channels.

For these reasons, AMI supports adoption of the NPRM in this proceeding with the minor modifications requested herein.

Respectfully submitted,
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August 5, 1993

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I, Shiona H. Baum, a secretary with the law firm of Kelly Hunter Mow & Povich, do hereby certify that a copy of the foregoing "Reply Comments" mailed first class, postage prepaid, this 5th day of August, 1993, to the following:

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